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MEMORANDUM

January 31, 2023

To: TRIBAL HOUSING CLIENTS

From: Ed Clay Goodman and Cari L. Baermann
HOBBS, STRAUS, DEAN & WALKER, LLP

Re: ***HUD's Section 184 Proposed Rule, HUD's Proposed Rule on Certification of Tribal Housing Counselors, and other Housing Updates***

This memorandum provides a synthesis of information a synthesis of HUD updates presented during a Northwest Indian Housing Associate (NWIHA) Winter Meeting, the U.S. Department of Housing and Urban Development's (HUD) proposed rule for the Section 184 Indian Home Loan Guarantee Program ("Section 184 Proposed Rule"), HUD's proposed rule ("Housing Counseling Proposed Rule") on Certification of Tribal Housing Counselors, and other housing updates.

I. HUD ONAP Update

Staff members from HUD's Office of Native American Programs (ONAP) provided an update on HUD initiatives and programs. ONAP staff are still working remotely and will likely be physically back in office in March, 2023.

Congress appropriated \$787 million for the Fiscal Year (FY) 2023 Indian Housing Block Grant (IHBG), which is a 2% increase from FY 2022. FY 2023 IHBG funds will be available the first week of March, 2023. The FY 2023 IHBG competitive funding (\$150 million) and FY 2023 Indian Community Development Block Grant (ICDBG) funding (\$70 million) will be coming soon. HUD staff emphasized that ICDBG imminent threat funding is available and HUD encourages tribes and Tribally Designated Housing Entities (TDHE) to apply. FY 2024 Census Challenges are due no later than March 30, 2023.

ONAP has revised SF-425 reporting submission requirements. ONAP grant recipients are expected to submit a single completed SF-425 for each open grant 90 days after the end of their program year. FY 2022 ended 12/31/2022 and SF-425 reports for FY 2022 are due March 31, 2023. However, this requirement does not apply to IHBG investment-approved recipients and Resident Opportunities and Self-Sufficiency (ROSS) Program grantees. IHBG investment-approved (investing or not) recipients must continue to submit an SF-425 each quarter. The deadline to submit the SF-425 is 30 days after quarters 1–3, and 90 days after fiscal year end (4th quarter). ROSS grantees must continue to submit an SF-425 each quarter.

Annual Performance Reports (APR) for IHBG and CARES/ARP for the December 31, 2022 Program year end are due **March 31, 2023**. Regarding audits, September 30, 2022 Fiscal Year End audits are due June 30, 2023, and December 31, 2022 Fiscal Year End audits are due September 30, 2023. ONAP will be conducting the FY 2023 monitoring through a hybrid approach, with some reviews to be conducted remotely and others in person.

II. HUD Skilled Workers Demonstration Project

The Consolidated Appropriations Act of 2017 (Public Law 115–31) made available \$1,727,000 for the costs of guaranteeing Section 184 loans to tribes and TDHEs for the construction of rental housing for skilled workers (e.g., law enforcement, healthcare, educational, technical, etc.). HUD has now created a Section 184 Skilled Worker Demonstration Project (“Demonstration Project”). This Demonstration Project provides tribes with a loan, guaranteed by HUD, to finance the construction of rental housing for skilled workers in tribal communities. On November 29, 2022, HUD released a Dear Lender Letter (DLL) that outlines the requirements for this Demonstration Project. The Demonstration Project DLL can be found [here](#).

III. HUD Section 184 Proposed Rule

On December 21, 2022, HUD published the Section 184 Proposed Rule amending the regulations for the Section 184 program. This memorandum provides an updated overview of the Section 184 Proposed Rule’s most significant provisions. We provided a more detailed overview of the Section 184 Proposed Rule in a prior memorandum, attached to this memo. This memorandum also provides a discussion of two consultation sessions that HUD conducted regarding the Section 184 Proposed Rule at the NWIHA Winter Meeting and through a national webinar on January 31, 2023. A copy of the slides from those sessions is attached to this memo. Heidi Frechette, HUD ONAP Deputy Assistant Secretary, Krisa Johnson, Director of HUD ONAP Office of Loan Guarantee, Andrew Lee, Senior Advisor of HUD ONAP Office of Loan Guarantee, and Deana O’Hara, HUD ONAP Senior Advisor, provided comments on the Section 184 Proposed Rule, which are included below. Comments by tribal participants are also included below.

HUD’s Section 184 Proposed Rule will amend the regulations governing the Section 184 program. Section 184 provides a loan guarantee to borrowers in the event of borrower default, which is paid from the Section 184 Loan Guarantee Fund (“Fund”). The Section 184 allows Native American borrowers to purchase a home with a low down-payment and flexible underwriting.

The deadline for public comments on the Section 184 Proposed Rule is **March 17, 2023**. Comments can be submitted at <http://www.regulations.gov>, through which interested parties can also see submitted comments in real time. HUD is conducting multiple tribal consultation sessions on the Section 184 Proposed Rule, as outlined in the final section of this memo. HUD has published the following Tribal Consultation Schedule for the Section 184 regulation amendments.

- **January 31, 2023 at 2:00–4:00 pm (Eastern Standard Time)** *National Webinar*

- **February 2, 2023 National Webinar**
- **February 6 or 7, 2023 Tentative.** Arlington, VA, (In conjunction with United Southern and Eastern Tribes (USET) meeting)

If you have additional questions about these consultations, please reach out to Deana O'Hara, HUD ONAP Senior Advisor, at deana.k.ohara@hud.gov.

One participant asked when HUD will publish the final rule on this regulation. HUD responded that HUD will review the public comments after the comment period ends. The U.S. Office of General Counsel and HUD will review and sign off on the Section 184 Proposed Rule. The U.S. Office of Management and Budget (OMB) will then review the Section 184 Proposed Rule for 90 days, after which HUD will publish it. Based on that timeline, HUD staff remarked that HUD may publish the Final Rule in December 2023.

There was also discussion about one of the Section 184 Proposed Rule changes that would require lenders to meet a minimum threshold of lending on Trust Land. HUD intends for the threshold requirement to increase lending on Trust Land “to further the objectives of the Section 184 Program and provide additional homeownership opportunities on Trust Lands.” HUD is looking for tribal comments on what this threshold should be and how HUD should determine the threshold. One participant asked whether HUD will allow tribes to use other lenders not on the Section 184 approved list to participate in the 184 Program. HUD responded that tribes should contact HUD staff about this and HUD will help the tribe to contact and work with those lenders.

Subpart C of the regulations provides an option for a Tribe to assign a lease to HUD in the event of a borrower's default under the loan. *See* § 1005.301(b)(5)(H)). HUD added this language to expedite the foreclosure processes for situations in which a Section 184 loan has been assigned to HUD after default, and the borrower has abandoned the property before foreclosure. In these situations, the tribe or TDHE cannot purchase the property until the foreclosure process is complete and the defaulted borrower is removed from the loan. However, because the U.S. Department of Justice (DOJ) handles the foreclosures, these foreclosures can often take four to seven years. During this time, properties are often vandalized because borrowers have abandoned the properties. Under the new process established by Section 184 Proposed Rule, if a tribe assigns the lease to HUD, HUD can then sell the lease back to the tribe, which will allow the tribe to take possession of the property without needing to wait until the property has been foreclosed. One participant asked what other measures HUD is taking to shorten the time period for foreclosures. HUD responded that many of the delays are caused by challenges within DOJ. HUD has been meeting with the DOJ to figure out how to shorten this time period, and HUD is also looking for tribal suggestions on how to further shorten this time period.

Subpart D outlines the requirements for a loan to be guaranteed under Section 184, and one of the key revisions includes a prohibition on lenders from using risk-based pricing based on a borrower's credit score to determine the borrower's interest rate (§ 1005.451). One participant commented that even though HUD does not use credit scores, HUD's practice of looking at credit history is detrimental to individuals with bad credit. HUD staff confirmed that while they do look at credit history, HUD will also work with borrowers to counsel them on how to establish better credit history. Another participant asked whether those who do not yet have credit can participate.

HUD responded that those without any credit can use alternative credit, such as cell phone bills, when applying for a loan. Another participant asked what HUD uses to determine the borrower's income. HUD responded that they use the borrower's average income over two years.

Subpart E outlines the requirements for closing a Section 184 loan and for receiving endorsement approval from HUD. One noteworthy change to this portion includes the option for borrowers to use third-party tribal notifications in the case of a borrower's default under the loan pursuant to § 1005.501(j), which HUD anticipates will facilitate tribal support of borrowers in the event of a default.

One participant asked whether tribes can mandate that their tribal members complete a third-party tribal notification. HUD staff stated that a third-party tribal notification form is required to be provided as part of the standard Section 184 loan forms. However, the question of whether a tribe could mandate use of the form would be a question for the tribe's legal counsel.

Another participant asked how state-recognized tribes are determined to be eligible to apply for the Section 184 program and how tribes can receive an invitation to attend tribal consultations. Additionally, the participant asked who the tribe should contact with questions on the Section 184 program application. HUD responded that it is using the IHBG definition of eligible tribes for the Section 184 program. State-recognized tribes eligible for IHBG funds will be eligible to apply for the Section 184 program. The consultations are open public events and do not require an invitation. The HUD ONAP [Codetalk webpage](#) has links to the consultations. Tribes can contact Krisa.M.Johnson@hud.gov and she will direct the tribe to the appropriate HUD staff member.

Another participant asked what HUD uses escrow payments for, and whether escrow payments are used to cover a borrower's missed loan payments. HUD staff responded that escrow payments are used for real estate taxes, loan guarantees, and other initial loan fees, and would not be used for covering missed loan payments.

One participant asked what it means for a creditor to use a borrower's alternative credit and on what factors the interest rates would be based. HUD staff responded that alternative credit is a nontraditional credit, such as if a borrower does not have a credit card or any other loans, but do have cell phone or utility payments. HUD and creditors can use such cell phone or utility payments or other payments as sources of alternative credit. Lenders would determine the interest rates, which would be set based on a lender's negotiations with a borrower. HUD monitors the interest rates but does not set them.

With the change in definition of "trust land", one participant asked whether tribes will now need to go through BIA for all title searches land that is restricted fee that previously was handled through the state. HUD staff responded that the definition change is an aggregate term to encompass many types of tribal land, but that the processes for obtaining title searches will not change.

A participant noted that many tribal mortgage codes do not include a provision requiring federal court jurisdiction over Section 184 loans. The participant asked whether these tribes would

be required to amend their tribal code to specifically such a provision. HUD staff responded that it is current practice that any foreclosure assigned to the federal government, HUD processes those foreclosures through the DOJ. The DOJ is often unable to process these in tribal courts and must process it in federal court. If the lender chooses to process the foreclosure in tribal code, then they may do so. HUD staff encouraged participants to submit formal comments regarding whether tribes must amend their codes to require federal court jurisdiction.

A participant asked whether HUD would release reports showing an increase in lending in Indian country. HUD staff responded that the participant should submit such questions formally and HUD will consider it. Another participant asked how they can provide loans and encourage outside lending for tribal members outside of their reservation area. HUD responded that when a tribe is approved for participation in Section 184 program, they are approved to provide loans for their IHBG formula area. HUD has a policy where tribes can ask for an expanded formula area. HUD staff also noted that the new changes implemented by the Section 184 final rule should increase lending in many areas of Indian country.

A participant asked whether there be any webinars for loan servicers highlighting changes to the regulations for lenders. HUD responded that there will not be any such webinars, but servicers can submit public comments on the Section 184 Proposed Rule.

IV. HUD Proposed Rule on Certification of Tribal Housing Counselors

The HUD Office of Housing Counseling has published the Housing Counseling Proposed Rule outlining housing counselor certification requirements for housing counseling conducted in connection with the IHBG and the ICDBG programs. Interested parties, including tribes and TDHEs, can submit public comments on the Housing Counseling Proposed Rule through **March 27, 2023** at <https://www.regulations.gov/>. HUD intends to conduct additional Tribal consultation before issuing a final rule.

HUD's Housing Counseling Program provides counseling to individuals about financing, maintaining, renting, or owning a home. The Dodd-Frank Wall Street Reform and Consumer Protection Act amended the Housing and Urban Development Act of 1968 to require entities and individual counselors to be certified by HUD in order to provide such counseling services. Currently, only a few tribes or tribal entities participate in HUD's housing counseling program. Most Tribes, TDHEs, and Tribal entities are currently ineligible to become HUD-approved housing counseling agencies and therefore are generally not eligible to receive HUD housing counseling grants.

In 2016, HUD agreed to conduct consultation with tribes before implementing the new housing counselor certification requirement for tribes. After consulting with tribes, HUD now proposes a separate housing counselor certification option for employees of tribes, TDHEs, and other tribal entities conducting housing counseling in relations to the IHBG and ICDBG programs. The Housing Counseling Proposed Rule still requires that “[h]ousing counseling required under or provided in connection with IHBG or ICDBG programs must be provided by a HUD-certified housing counselor.” Certification of Tribal Housing Counselors, 88 Fed. Reg. 4923, 4926 (Jan 26, 2023) (to be codified at 24 CFR Parts 214, 1000, and 1003). However, the Housing Counseling

Proposed Rule adds a new Subpart F (24 CFR § 214.600) to the regulations that will establish housing counseling certification requirements for tribes, TDHEs, and other tribal entities.

The preamble to the Housing Counseling Proposed Rule states that HUD is incorporating tribal feedback into the Housing Counseling Proposed Rule by streamlining the housing counselor certification option for employees of tribes, TDHEs, and other tribal entities. Certification of Tribal Housing Counselors, 88 Fed. Reg. at 4926. The preamble specifically noted concerns raised by tribes about the irrelevancy to tribes of some of the questions on the housing counseling certification examination, and the concern that the “current test requirements do not reflect the unique way that civil rights requirements apply to Tribes and other Tribal grantees under HUD programs.” Certification of Tribal Housing Counselors, 88 Fed. Reg. at 4925. The preamble also notes tribes’ concerns with their ability to meet the threshold requirement that the agency be a nonprofit (under section 501(c) of the Internal Revenue Code of 1986 (IRC)), the barriers created by tribes having limited resources, and the lack of availability of housing counselors in remote areas. Certification of Tribal Housing Counselors, 88 Fed. Reg. at 4926. While the Housing Counseling Proposed Rule does not exempt tribes from the housing counseling requirement, it does address tribal comments by allowing housing counselors to work for tribes, TDHEs, and other tribal entities.

Under the standard requirements of the current regulations (24 CFR Part 214) to become a HUD-approved housing counseling agency, the agency must be: (1) a nonprofit organization (under section 501(c) of the Internal Revenue Code of 1986 (IRC)); and (2) approved by HUD to provide housing counseling services to clients. To become a certified housing counselor, the individual must be employed by a participating agency (i.e. a HUD-approved housing counseling agency or a unit of state or local government). 24 CFR Part 214.

However, under the new Housing Counseling Proposed Rule, an individual may become a HUD-certified housing counselor by meeting the standard requirements of Part 214 described above, **or** by meeting the requirements specific to tribes and TDHEs under Subpart F (§ 214.600). Under the tribe-specific requirements, an individual may become a HUD-certified housing counselor by (1) working for a tribe, TDHE, or other Tribal entity, and (2) passing a standardized, written housing counseling certification examination under Subpart F. § 214.600. Certification of Tribal Housing Counselors, 88 Fed. Reg. at 4928.

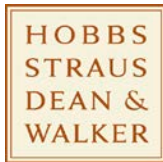
The housing counseling certification examination under Subpart F will be similar to the standard housing counseling certification examination. The certification examination will still test an individual’s competency in the following areas: (1) Financial management; (2) property maintenance; (3) responsibilities of homeownership and tenancy; (4) fair housing laws and requirements; (5) housing affordability; and (6) avoidance of, and response to, rental or mortgage delinquency and avoidance of eviction or mortgage default.” Certification of Tribal Housing Counselors, 88 Fed. Reg. at 4928. However, it will be tailored to fit tribal issues and reflect the unique status of trust land. 4925. The Housing Counseling Proposed Rule provides for “a three-year transition period after the effective date of the final rule for individual counselors to be certified.” Certification of Tribal Housing Counselors, 88 Fed. Reg. at 4928.

Additionally, the Housing Counseling Proposed Rule would amend the IHBG and ICDBG regulations to provide that any housing counseling for these programs may only be conducted by individuals certified in accordance with 24 CFR Part 214. Certification of Tribal Housing Counselors, 88 Fed. Reg. at 4928. The Housing Counseling Proposed Rule further recommends that any individual certified under Subpart F to provide housing counseling for IHBG and ICDBG programs should undergo training on tribe-specific issues, such as Federal Indian law, the unique status of trust land, the role of tribes in granting leases on trust land, etc. Certification of Tribal Housing Counselors, 88 Fed. Reg. at 4925.

HUD is seeking tribal feedback on the Housing Counseling Proposed Rule, including specifically on whether there is a less burdensome alternative to the Housing Counseling Proposed Rule that would still meets HUD's objectives.

Conclusion

If you have any questions about this memorandum, please contact Ed Clay Goodman (egoodman@hobbsstrauss.com) or Cari Baermann (cbaermann@hobbsstrauss.com); both may be reached by phone at 503-242-1745.



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MEMORANDUM

December 19, 2022

To: TRIBAL HOUSING CLIENTS

From:  Ed Clay Goodman and Cari L. Baermann
HOBBS, STRAUS, DEAN & WALKER, LLP

Re: ***HUD Section 184 Proposed Rule***

On November 30, 2022, the U.S. Department of Housing and Urban Development (HUD) issued a [press release](#) stating that it will be publishing a proposed rule (“Proposed Rule”) for the Section 184 Indian Home Loan Guarantee Program (“Section 184”). The Proposed Rule will be published in the Federal Register sometime in the next two weeks. This memorandum provides an analysis and overview of an early release of the Proposed Rule’s most significant provisions, as well as a discussion of a listening session HUD conducted regarding the Proposed Rule.

A. Overview

HUD’s Section 184 Proposed Rule will amend the regulations governing the Section 184 program. Section 184 provides a loan guarantee to borrowers in the event of borrower default, which is paid from the Section 184 Loan Guarantee Fund (“Fund”). The program allows Native American borrowers to purchase a home with a low down-payment and flexible underwriting. HUD states that its intention for the Proposed Rule is to modernize the Section 184 program and provide detailed processes and requirements that HUD intends to improve to increase homeownership in Indian Country.

HUD will conduct multiple tribal consultation sessions on the Proposed Rule, as outlined in the final section of this memo. The deadline for public comments is **March 6, 2023**.

B. Proposed Changes

The Proposed Rule includes approximately 141 regulations, divided into nine subparts (Subparts A–I), which will be codified at 24 C.F.R. parts 48 and 1005. Dep’t of Housing and Urban Development, Proposed Rule: Strengthening the Section 184 Indian Home Loan Guarantee Program, at 1, 8 (Nov. 30, 2022). The Proposed Rule “remove[s] outdated sections and replac[es] them with the following: definitions, eligibility requirements for Lenders, rules governing participation by Indian Tribes, underwriting requirements, rules on the closing and

endorsement process, loan fees, servicing requirements submission of Claims, and standards governing monitoring, reporting, sanctions and appeals.” *Id.* at 8.

Subpart A – General Program Requirements

Subpart A addresses “General Program Requirements,” which includes: the purpose of Section 184 (as defined under § 1005.101) and definitions pertinent to Section 184 (located at § 1005.103). The Proposed Rule revises current definitions under § 1005.103, including the definitions of “Default,” “Indian,” “Property,” “Section 184,” and “Trust or Restricted Land.” *Id.* at 9. The Proposed Rule also eliminates the terms “Mortgage” and “Mortgagee” from § 1005.103 because those terms “are no longer used in the [Section 184] program and are obsolete.” *Id.* The Proposed Rule would further codify the adoption of terms HUD commonly uses in administering Section 184. *Id.*

Subpart B – Lender Eligibility & Requirements

Subpart B, titled “Lender Eligibility & Requirements,” governs “Lender eligibility and the application process to participate in Section 184 . . . as a Non-Direct Grantee or Direct Guarantee Lender,” which the Proposed Rule changes in the following ways:

- Changes § 1005.201 (governing lender approval and participation) by requiring Lenders to submit an application “for participation in accordance with the level of activity a Lender wants to engage in, as provided by Section 184 Program Guidance.”
- Changes § 1005.203, titled “Lender deemed approved by statute,” by “referenc[ing] Community Development Financial Institutions (CDFIs) as being included as a ‘Lender approved by statute.’”
- Adds § 1005.205 to address qualifications for participation in HUD’s Section 184 program if a Lender is not approved under the statutory approved list in § 1005.203 and how such a prospective lender could apply to become a lender under § 1005.205.
- Adds § 1005.207 to address the two levels of lender participation in Section 184, Non-Direct Guarantee Lender and Direct Guarantee Lender, and require eligible lenders to select their desired participation level by submitting an application to HUD.
- Adds § 1005.209 to: (1) address application requirements for lenders to become a Direct Guarantee Lender and (2) require such applicants to submit a quality control plan. *Id.*
- Adds § 1005.211 to address what constitutes HUD approval for Lenders applying to participate as a Direct Guarantee Lender under § 1005.209, which would be a new addition to HUD’s current practice.

- Adds § 1005.213 to describe the “sponsorship relationship between a Direct Guarantee Lender and a Non-Direct Guarantee Lender and the general responsibilities of a Direct Guarantee Lender as the Sponsor.” This aligns with HUD’s current practice.
- Requires lenders to meet annual reporting requirements (provided under § 1005.214) and to submit quality control plans (provided under § 1005.217).
- Adds § 1005.219 to require lenders to comply with various sovereign’s laws (e.g., tribal, state, federal) and, in addition to HUD’s current practice, meet a minimum level of lending on Trust Land. HUD intends for the latter requirement to increase lending on Trust Land “to further the objectives of the Section 184 Program and provide additional homeownership opportunities on Trust Lands.”
- Adds several other sections to reduce risk in determining lender eligibility, such as defining lender ineligibility (§ 1005.225), requiring annual recertification of lenders (§ 1005.223), and requiring lenders to inform HUD of any changes in the lender’s legal structure or staffing, as well as any new sanctions against the lender (§ 1005.221).

Subpart C – Lending on Trust Land

Subpart C addresses lending on Trust Land by adding requirements for tribal participation in Section 184 when “Tribes want to make Trust Land or Restricted Fee Land available under the Section 184 Program.” Subpart C encompasses §§ 1005.301–313, which require tribes to submit applications for Section 184 opportunities on their Trust Lands, meet reporting requirements, provide certain assurances to HUD, and ensure certain safeguards in case a tribe defaults on a loan.

Subpart C further requires tribes to meet a variety of requirements to operate Section 184 on Trust Lands, including passing certain tribal ordinances, and showing HUD they “have the necessary legal structure in the event of a default on Trust Land and to ensure that HUD is provided first lien priority.” Subpart C also requires tribes to submit an annual recertification when there is no change in their legal and administrative framework. *Id.* at 16. Section 1005.309 under this Subpart also requires tribes to report to HUD any changes in contact information or legal framework. Additionally, Subpart C requires tribes to provide HUD notification of a borrower’s default on the tribal lease under § 1005.311. Finally, Subpart C creates reporting requirements for tribal participants under § 1005.313 at 17.

Subpart D - Underwriting

Subpart D outlines the requirements for a loan to be guaranteed under Section 184. Subpart D is broken down into four parts, addressing requirements for eligible borrowers, eligible properties, eligible loan types, and underwriting for the program, which are covered under §§ 1005.401–.361:

- Sections 1005.401–.411 discuss how HUD will determine eligibility of borrowers for Section 184. For instance, § 1005.401 governs how HUD determines eligibility for Section 184—specifically requiring a borrower to be an “Indian Family, Indian Tribe or TDHE.”
- Sections 1005.413–.433 cover provisions related to eligible property types, such as title restrictions (§ 1005.413), rental properties (§ 1005.425), the eligibility of loans covering manufactured homes (§ 1005.429), and requirements on properties that do not have access to a continuous supply of safe and potable water (§ 1005.431).
- Sections 1005.435–.453 cover eligible loan types and provisions that may be included in loan documents, such as the maximum age of loan documents (§ 1005.447), qualified mortgages (§ 1005.449), and amortization provisions (§ 1005.453). Important updates to this portion of the Subpart include HUD’s prohibition on lenders from using risk-based pricing based on a borrower’s credit score to determine the borrower’s interest rate (§ 1005.451) and the removal of the requirement for a 10-year warranty for new construction (§ 1005.433).
- Sections 1005.455–.461 cover underwriting requirements. Section 1005.455, for example, revises the current § 1005.106(a)’s outline of the direct guarantee process for “Direct Guarantee underwriters.”

Subpart E - Closing

Subpart E outlines the requirements for closing a Section 184 loan and for receiving endorsement approval from HUD.

- The closing portion of Subpart E encompasses sections 1005.501–1005.517 and covers topics including but not limited to: Direct Guarantee lender closing requirements (§ 1005.501); application payments (§ 1005.509); late fees (§ 1005.511); and borrower’s payments when Section 184 loans are executed (§ 1005.513). One noteworthy change to this portion includes the option for borrowers to use third-party tribal notifications in the case of a borrower’s default under the loan pursuant to § 1005.501(j), which HUD anticipates will facilitate tribal support of borrowers in the event of a default.
- The second portion of Subpart E (governing endorsement and post-closing matters) includes §§ 1005.519–.529 and covers topics related to: the creation of the contract related to the closing of the loan (§ 1005.519); the lender’s pre-endorsement review and requirements (§ 1005.521); HUD’s pre-endorsement review process and the deadline for the lender’s submission of endorsement documentation (§ 1005.523); the conditions under which HUD will issue loan guarantee certificates (§ 1005.525); HUD’s post-endorsement review process (§ 1005.527); and provisions requiring the originating Direct Guarantee Lender to indemnify HUD (§ 1005.529).

Subpart F -Guarantee Loan Fees

Subpart F outlines the requirements for a lender's and servicer's calculation, collection, and submission of Section 184 loan guarantee fees. This Subpart encompasses §§ 1005.601–.611, which: clarify the scope and method of payments for guaranteed loan fees (§ 1005.601); mandate that an up-front guarantee fee is to be paid at closing (§ 1005.603); and require remittance of up-front loan guarantee fees from the lender and specifies conditions for the same (§ 1005.605). This Subpart further requires: the collection of an annual loan guarantee fee from the borrower on a monthly basis (§ 1005.607); that servicers submit to HUD the annual loan guarantee fees collected from the borrower no later than the 15th day of each month, and the meeting of collection requirements of such fees on the servicer (§ 1005.609). Finally, this Subpart provides circumstances under which HUD can impose civil monetary penalties on Direct Guarantee lenders and servicers related to the collection and submission of loan guarantee fees (§ 1005.611).

Subpart G – Servicing

Subpart G outlines requirements for services to manage Section 184 guaranteed loans and the steps required to mitigate loss when a borrower defaults on the loan. *Id.* at 36. This Subpart is organized into the following four subgroups: (1) “Servicing Section 184 Loans Generally”; (2) “Servicing Default Section 184 Guaranteed Loans”; (3) “Servicing Default Section 184 Guaranteed Loans Under the Loss Mitigation Program”; and (4) “Assignment of the loan to HUD, Foreclosure & Conveyance.”

Subgroup 1. “Servicing Section 184 Loans Generally” - §§ 1005.701–.727

These sections have a wide variety of functions, including, but not limited to: providing an overview of HUD's servicing expectations and requirements (§ 1005.701); requiring lenders to meet certain eligibility expectations and go through an application process (§ 1005.703); establishing “what constitutes HUD approval for [lenders] and other financial institutions applying to be servicers in the Section 184 Program” (§ 1005.705); imposing responsibilities on servicers for servicing the Section 184 program (e.g., compliance; using a sub-servicer; and records retention) (§ 1005.707); requiring servicers to inform borrowers about the Section 184 program (1005.709); and imposing requirements and laying out the process for assumption of a Section 184 guaranteed loan (§ 1005.711).

Further, these sections: mandate a due-on-sale clause permitting acceleration for all Section 184 guaranteed loans (§ 1005.713); establish the order in which the servicer applies borrower payments authorized under § 1005.509 (governing application payments) (§ 1005.715); establish requirements for administering escrow accounts and deposits from a Section 184 guaranteed loan (§ 1005.717); provide allowable fees and changes from the servicer to the borrower after HUD endorses a loan (§ 1005.719); propose when and how late charges must be applied by a servicer (§ 1005.721); require the servicer to have a written policy available to the public regarding how it handles partial payments and acceptable actions when a servicer receives a partial payment from a buyer (§ 1005.723); require the servicer to accept pre-payments at any time and outline how the interest on debt is calculate for prepayments (§ 1005.725); and the process related to when a borrower requests substitution for a co-borrower on a Section 184 guaranteed loan.

Subgroup 2. “Servicing Default Section 184 Guaranteed Loans” - §§ 1005.729–.737.

These sections: require “the Servicer to take prompt action to collect amounts due from borrowers and exhaust all reasonable possibilities of collection before foreclosure or assignment” (§ 1005.729); outline requirements for contacting a defaulted borrower, including live contact and written notice (§ 1005.731); provide specific expectations when a servicer processes a borrower’s loss mitigation application, including providing written notice to the borrower of their loss mitigation options (§ 1005.733); outline the occupancy inspection process and requirements for servicers in conducting such inspections (1005.735); and requirements for when a property has been determined vacant or abandoned based on an occupancy or occupancy follow-up inspection (§ 1005.737).

Subgroup 3. “Servicing Default Section 184 Guaranteed Loans Under the Loss Mitigation Program”-- §§ 1005.739–.755.

These sections: cover loss mitigation options and requirements when a borrower defaults on a Section 184 loan (§ 1005.739); codify HUD’s current practice of notifying the Bureau of Indian Affairs (BIA) when a borrower defaults on a loan, as well as add a requirement for servicers to notify the borrower’s tribe when a borrower defaults on a loan, provided the borrower gives his or her consent to the servicer (§ 1005.741); and provide relief options for borrowers in military service, such as postponement of principal payments and foreclosure (§ 1005.743).

Further, these sections: provide forbearance options a servicer may offer to defaulting borrowers (§ 1005.745); require servicers to “explore loan assumption as a Loss Mitigation option” (§ 1005.747); provide loan modifications as a loss mitigation option and establish eligibility and qualifications necessary for a servicer to approve a borrowers application and the required property conditions (§ 1005.749); provide authority for pre-foreclosure sale as a loss mitigation option; and require the use of “deed-in-lieu/lease-in-lieu of foreclosure as a loss mitigation option (§ 1005.753).

Subgroup 4. “Assignment of the loan to HUD, Foreclosure & Conveyance.” - §§ 1005.757–.771.

Subpart G, “Assignment of the loan to HUD, Foreclosure & Conveyance,” covers these sections, which establish the following: provide a timeframe in which a servicer must contact a tribe or TDHE and offer an option to assume or purchase the Property or the Note under § 1005.757(a) when a defaulted loan is tied to property on Trust Land (§ 1005.757); require servicers to initiate foreclosure or request the ability to assign a defaulted property to HUD (§ 1005.759); provide a timeline for the initiation of a foreclosure by the servicer on defaulted Section 184 guaranteed loans (§ 1005.761); provide requirements for assigning a defaulted Section 184 guaranteed loan to HUD (§ 1005.763); require servicers to comply with inspection requirements under § 1005.737 (inspection of vacant or abandoned properties) (§ 1005.765); place conditions on the property and servicer’s responsibilities at the time a property is transferred to HUD through conveyance or assignment (§ 1005.767); provide methods and a timeframe in which a servicer

may convey a property to HUD after foreclosure, such as notifying HUD of the conveyance (§ 1005.769); and establish the date on which HUD is deemed to have accepted an assignment of a Section 184 Guaranteed Loan or title to and possession of a property (§ 1005.771).

Subpart H – Claims

Subpart H outlines requirements for servicers to submit claims to HUD. Subpart H is composed of five subgroups: (1) claims application, submission categories, and types; (2) submission of claims; (3) property title transfers and title waivers; (4) condition on the property; and (5) payment of guarantee benefits.

Subgroup 1: Claims Application, Submission Categories, and Types - §§ 1005.801–.809.

These sections: propose the purpose of this subpart, “which is to set forth the requirements applicable to a submission of an application for loan guarantee benefits” or claim submission (§ 1005.801); require servicers to maintain a claim case binder for a minimum of five years after the final claim has been paid and allow HUD to access the case binder (§ 1005.803); and establish actions HUD may take if a claim case binder does not comply with the requirements of Subpart D (§ 1005.805). *Id.* at 53–55. These sections also outline the three claim submission categories, which include: (1) payment of the unpaid principal balance; (2) reimbursement of eligible reasonable expenses up to assignment, conveyance or transfer of the property; and (3) “supplemental claims for eligible expenses incurred that were omitted from the Servicer’s prior submission or for a calculation error made by the Servicer or HUD” (§ 1005.807).

Subgroup 2: Submission of Claims - §§ 1005.811–.815

These sections govern the process for submitting claims, including, but not limited to: the required supporting documentation for claims (§ 1005.811) and the conditions for the withdrawal of a claim (§ 1005.815).

Subgroup 3: Property Title and Title Transfers - §§ 1005.817–.825

These sections require: that a property has good and marketable title when conveyed to HUD from a lender (§ 1005.817); and the subsequent execution of evidence of title “or Title Status Report . . . to the filing for record of the deed or assignment to HUD” (§ 1005.821). This subgroup also allows a showing of six types of title evidence that may be submitted with a claim submission (e.g., fee or owner’s title policy; lender’s policy of title insurance; an abstract and legal opinion) (§ 1005.819).

Subgroup 4: Condition of Property - §§ 1005.827–.831

These sections: (1) outline a lender’s “responsibilities when a property has suffered damage or neglect and HUD’s remedy when a damaged property is conveyed to HUD without prior notice or approval” (§ 1005.827); (2) require a servicer to submit a certificate of property condition as

part of the claim submission (§ 1005.829); and (3) provide that servicers “shall cancel any hazard insurance policy as of the date of the filing for record of the deed to HUD” (§ 1005.831).

Subgroup 5: Payment of Guarantee Benefits - §§ 1005.833–.851

These sections: establish that HUD will pay guarantee benefits by electronic transfer of funds for all approved claim submissions (§ 1005.833); provide that any payment of a claim by HUD is not exclusive evidence of a servicer’s compliance with Section 184 program requirements (§ 1005.835); provide that HUD “will pay claims for unpaid principal balance submitted under § 1005.807(a), minus any receipts for the sale or transfer of the Property” (§ 1005.837); and establish the payment timeframe for interest payments on the unpaid principal balance (§ 1005.839).

Additionally, these sections, among other things, work to: establish conditions for final payment (§ 1005.847); outline actions HUD may take when there is a reconveyance of a property or a reassignment of the deed of trust or mortgage back to the holder (§ 1005.849); and establish a holder’s or lender’s reimbursement responsibilities when “HUD determines it will reconvey a property previously conveyed to HUD under the claims process” (§ 1005.851).

Subpart I – Lender Monitoring, Reporting, Sanctions and Appeals

Subpart I of the Proposed Rule outlines HUD’s ability to conduct periodic performance reviews, reporting requirements for lenders and servicers, and sanctions for noncompliance with regulations. Subpart I does so by: (1) establishing HUD’s authority to conduct periodic performance reviews of lenders, holders, and servicers (§ 1005.901); (2) mandating lenders and servicers to provide timely and accurate reports and certifications to HUD (§ 1005.903); require HUD to provide notice to lenders, holders, or services of any non-compliance and provide them with an opportunity to remedy their noncompliance, and provide notice of any pending sanctions against them (§ 1005.905); and permit HUD to impose sanctions and civil money penalties when a lender, holder, or servicer fails to comply with 24 C.F.R. part 1005. Subpart I further allows for appeals of a determination by HUD to deny a lender’s participation in the Section 184 program (§ 1005.909).

Part 58 Regulations

Currently tribes may elect to assume environmental responsibility for Section 184 guaranteed loans pursuant to 24 CFR part 58, which requires tribes to ensure applicable environmental requirements are met. HUD proposes to amend the rule so as to remove the option for tribes to assume environmental review responsibility for the Section 184 Program for fee simple properties that are located outside of a reservation “in order to streamline the environmental review process and relieve the burden upon Tribes.” While HUD asserts that “it is impractical to have a Tribe assume environmental responsibilities for Section 184 guaranteed loans on fee simple Properties outside of a reservation, which may be located far from the reservation of the Borrower’s Tribe,” it does not explain why it should not be up to the tribe to decide whether to assume such burdens or not, only stating that it will increase HUD’s efficiency. The Proposed Rule further changes Part 58 by expanding the types of activities that are categorically excluded from environmental assessment under the National Environmental Policy Act. Specifically, the

Proposed Rule will add as categorically excluded activity: the “guarantee of loans for one- to four-family dwellings under the Direct Guarantee procedure for the Section 184 program when there is no review or approval of the application for the loan guarantee by HUD or the responsible entity, or approval of the loan guarantee by HUD, before the execution of the contract for construction or rehabilitation and the loan closing.” *Id.*

C. December 7, 2022 NAIHC Listening Session

As part of the process of creating and revising the Proposed Rule, HUD has and is currently conducting outreach and listening sessions with Indian tribes and organizations. A breakout session at the Native American Indian Housing Council (NAIHC) Legal Symposium on December 7, 2022 served as one such listening session. Krisa Johnson, Director, HUD ONAP Office of Loan Guarantee, Andrew Lee, Senior Advisor, HUD ONAP Office of Loan Guarantee, and Deana O’Hara, HUD ONAP Senior Advisor (collectively, “HUD Staff”), conducted the listening session and provided an overview of some of the Proposed Rule’s changes to the regulations.

The HUD Staff stated the HUD Proposed Rule will be published within the next two weeks. They explained HUD has incorporated some of the tribal feedback it had previously received. The HUD Staff emphasized that HUD conducted 18 tribal consultations prior to drafting this proposed rule. Additionally, they explained HUD is now seeking tribal feedback on the proposed rule before it is finalized. If any tribes have comments or concerns, they explained that tribes can submit feedback through the Federal Register portal once the proposed rule is published. The HUD Staff noted they would particularly like tribal feedback on properties that go into default. They also stated HUD wants to know what it can do to better address situations in which properties go into default or are abandoned. HUD is also looking for tribal feedback on the minimum level of participation on trust land. The presenters also stated that HUD will be drafting and publishing a handbook that provides more detail on the processes and procedures of implementing this proposed rule.

The HUD staff explained they drafted the Proposed Rule with the intent that the new rules will increase the willingness of lenders to invest in Indian Country. They further explained that HUD had received feedback from tribes and lenders that the lenders needed better HUD regulations that would make the lenders feel more comfortable lending in Indian Country. The HUD staff also noted that lenders can submit comments on the proposed rule during the comment period before March 6, 2023.

One audience participant commented that the Proposed Rule regulation allowing for HUD to demand data is concerning because it gives HUD too much leeway to demand significant data from tribes later in the process, and this could be a burden. The HUD Staff replied that if tribal feedback includes strong push back against these regulations, then HUD will consider those concerns and decide whether to include provisions allowing for HUD to require such data. The HUD Staff further responded that tribes could comment on what types of data tribes are comfortable with HUD requiring, and what data tribes would not be comfortable with HUD requiring.

Another participant commented on his concern regarding risk management under the Proposed Rule. Specifically, he requested for more information about HUD's insurance requirements for homeowners and HUD's requirements for protecting lenders. The HUD Staff replied to the participant's comment, in part, stating that Congress makes those determination based on default rate (2.93 percent for 2022).

D. Tribal Consultation Schedule

HUD has published the following Tribal Consultation Schedule for the Section 184 regulation amendments discussed above.

- **December 14, 2022** Welch, Minnesota, Treasure Island Resort & Casino (In conjunction with Midwest Alliance of Sovereign Tribes (MAST) winter meeting)
- **December 15, 2022** Rapid City, South Dakota, USDA Service Center.
- **January 10, 2023** Norman, Oklahoma, Riverwind Hotel & Casino (In conjunction with Southern Plains Indian Housing Association (SPIHA) meeting)
- **January 20, 2023** Albuquerque, New Mexico, Dennis Chavez Federal Building
- **January 24, 2023** Arlington, Washington (in conjunction with Northwest Indian Housing Association (NWIHA) meeting)
- **January 31, 2023** *Alaska Region Webinar*
- **February 2, 2023** *National Webinar*
- **February 6 or 7, 2023** *Tentative*. Arlington, VA, (In conjunction with United Southern and Eastern Tribes (USET) meeting)

HUD suggests visiting the Section 184 Tribal Consultation webpage for up-to-date information on these Tribal Consultation sessions.

Conclusion

If you have any questions about this memorandum or any of the topics discussed in this memorandum, please contact Ed Clay Goodman (egoodman@hobbsstrauss.com) or Cari Baermann (cbaermann@hobbsstrauss.com); both may be reached by phone at 503-242-1745.

Section 184 Proposed Rule

January 2023

Overview

- The Section 184 program increases homeownership opportunities for Native American families by providing a federal guarantee on qualifying loans in the event of default.
- The Section 184 regulations have not been updated since 1996. Since that time, the program has grown from fewer than 100 loans a year to more than 3,600 loans worth over \$860 million in fiscal year 2022.

Overview

- The proposed rule strengthens and modernizes the Section 184 program by:
 - Codifying current practices, policies and procedures, and adopts relevant industry standards.
 - Incorporating Tribal comments, as appropriate, which may be received during consultation.
 - Setting expectations for Lenders and Servicers and providing an explicit framework within which Lenders and Servicers must operate.

Overview

- The proposed rule includes approximately 141 regulations, divided into 9 subparts. In contrast, current rule only has 11 regulations.
- On November 30, 2022, HUD published the proposed rule on its website.
- The proposed rule was then published in the Federal Register on December 21, 2022, with a public comment due date of March 17, 2023. It can be found at www.HUD.gov/codetalk.
- HUD sent out Dear Tribal Leader Letters on November 21, 2022 and December 21, 2022.

Overview

- ONAP is holding Tribal consultations on the proposed rule:

December 7, 2022	Las Vegas, Nevada
January 10, 2023	Norman, OK
January 20, 2023	Albuquerque, New Mexico
January 24, 2023	Arlington, Washington
January 31, 2023	National Webinar
February 5, 2023	Arlington, VA
February 8, 2023	Anchorage, Alaska
February 10, 2023	Denver, Colorado

Regulation Subparts

- **Subpart A:** General Program Requirements
- **Subpart B:** Lender Eligibility & Requirements
- **Subpart C:** Lending on Trust Land
- **Subpart D:** Underwriting
- **Subpart E:** Closing and Endorsement
- **Subpart F:** Section 184 Loan Guarantee Fees
- **Subpart G:** Servicing
- **Subpart H:** Claims
- **Subpart I:** Lender Performance, Reporting, Sanctions and Appeals

Subpart A – General Program Requirements

- Outlines the purpose of the new Part 1005 – to implement the Section 184 program - and provides definitions for 46 terms used in the regulation.
- Revises definitions in the existing Section 184 Program regulations to better reflect how the terms are currently used by the Section 184 Program.
- Establishes new definitions including one for Trust Land that includes allotted, restricted fee, or assigned trust lands.

Definitions

- *Date of Default* means the Day after the Borrower's obligation to make a loan payment or perform an obligation under the terms of the loan, Loss Mitigation plan, or any other agreement with the Direct Guarantee Lender was due and the payment has been missed.
- *Default* means when the Borrower has failed to make a loan payment or perform an obligation under the terms of the Section 184 Guaranteed Loan, Loss Mitigation plan, Lease, or any other agreement with the Direct Guarantee Lender.

Definitions

- *Indian* means a person who is recognized as being an Indian or Alaska Native Federally by a recognized Indian Tribe, a regional or village corporation as defined in the Alaska Native Claims Settlement Act, or a State recognized Tribe eligible to receive assistance under Title I of the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA).

Definitions

- *Loss Mitigation* means an alternative to foreclosure offered by the Holder of a Section 184 Guaranteed Loan that is made available through the Servicer to the Borrower.
- *Property* means a one to four-family dwelling that meets the requirements for standard housing under § 1005.419 and located on Trust Land, land located in an Indian or Alaska Native area, or Section 184 Approved Program Area.

Definitions

- *Section 184 Approved Program Area* means the Indian Housing Block Grant (IHBG) Formula Area as defined in 24 CFR 1000.302 or any other area approved by HUD, in which HUD may guarantee Loans.

Definitions

- *Tribe* means any Indian Tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601, et seq.), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians pursuant to the Indian Self Determination and Education Assistance Act of 1975.

Definitions

- *Trust Land* means land title which is held by the United States for the benefit of an Indian or Tribe or title which is held by a Tribe subject to a restriction against alienation imposed by the United States or Tribe. This definition shall include but is not limited to allotted, restricted fee, or assigned trust lands.

Subpart B – Lender Eligibility & Requirements

- Outlines Lender eligibility and participation levels.
- Lenders must select a participation level as a Non-Direct Guarantee Lender or a Direct Guarantee Lender (§ 1005.207(b)-(c)).
- Requires Lenders to certify annually as to their good standing in the program and certain section 184 requirements are met (§ 1005.215).
- Allows HUD to establish a minimum threshold of Trust land lending to participate in the program (§ 1005.219(e)).

Subpart C – Lending on Trust Land

- Outlines requirements for Tribal participation in the Section 184 program.
- Tribes must apply to HUD to participate in the Section 184 program for trust land lending (§1005.303).
- HUD will provide written approval upon acceptance of Tribe's application (§ 1005.305).
- Provides more flexibility for the Tribe to reassign the lease to HUD in the event of borrower's default under the loan (§1005.301(b)(5)(H)).

Subpart C – Lending on Trust Land

- Requires Tribes to submit an annual recertification when there is no change in their legal and administrative framework (§1005.307).
- Requires Tribes to report to HUD any changes in contact information or legal framework within 15 days (§1005.309).
- Requires Tribes to provide HUD notification of a borrower's default on the Tribal lease (§1005.311).
- Creates a placeholder for HUD to request program data from Tribal participants (§1005.313).

Subpart D – Underwriting

- Outlines requirements for eligible borrowers, eligible properties and loan types for the Section 184 program.
- Allows borrowers with a previous Section 184 default to participate in the program (§ 1005.409).
- Sets the minimum required property standards for properties and explains environmental review requirements (§ 1005.419).
- Minimum property standards include: decent, safe, sanitary and modest in size and design; conform with regional construction standards; heating, plumbing and electrical systems; and minimum square footage requirements.

Subpart D – Underwriting

- Prohibits Lenders using risk-based pricing, which would rely on borrower's credit score to determine borrower's interest rate (§ 1005.451).
- Updates lending requirements for manufactured homes (§ 1005.429) and water purification systems (§ 1005.431).
- Removes the requirement for a 10-year warranty for new construction (§ 1005.433).

Subpart E – Closing & Endorsement

- Outlines requirements for closing a Section 184 loan and receiving endorsement approval from HUD.
- Provides borrowers the option for third-party Tribal notification in the case of borrowers' default under the loan (§ 1005.501(j)).
- Borrower's monthly loan payments include escrow payments, which include, as applicable, ground rents, fire and hazard insurance, loan guarantee fee, flood insurance, special assessments and taxes.

Subpart F –Loan Guarantee Fees

- Outlines requirements for Lender's/ Servicer's calculation, collection and submission of Section 184 loan guarantee fees.
- Clarifies the payment and servicing of the Annual Loan Guarantee Fee (§ 1005.607).
- Establishes late fees and fines when Lenders or Servicers do not properly adjust borrower Annual Loan Guarantee Fee payments. (§ 1005.611).
- Prohibits Lenders and Servicers from recovering from the Borrower any HUD imposed penalties on the Lender and Servicer (§ 1005.611(a)).

Subpart G – Servicing

- Outlines requirements for Servicers to service the Section 184 loan and the loss mitigation require when the loan is in default.
- Lender must give Notice of Default to Borrower and provide, among other things, loss mitigation options, where appropriate (§ 1005.731).
- Timeline for Servicer to acknowledge loss mitigation, timeline to process loss mitigation and provide notification of loss mitigation application review; Borrower has right to appeal (§ 1005.733).
- Lists potential loss mitigation options: forbearance, assumption, loan modification, pre-foreclosure sale, Deed-in-Lieu and Lease-in-Lieu (§ 1005.739).

Subpart G – Servicing

- When elected by Borrower, Notice of Default may be provided to the Tribe; Notice of Default provided to BIA (§ 1005.741).
- Authorizes HUD to provide incentive payments to Lender, Borrower and/or Tribes/TDHEs. (§ 1005.731).
- Provides Tribe with option to assume the loan or purchase the property at appraised value or other purchase price. (§ 1005.757).
- Requires initiation of foreclosure (fee simple) or assignment (Trust Land) to HUD must occur within 180 days after default, if loss mitigation is unsuccessful (§§ 1005.761(a) and 1005.763(b)).

Subpart H – Claims

- Outlines claim types and requirements to submit claims to HUD.
- Establishes timeframe for eligible costs (§ 1005.841) and interest payments incurred during default and foreclosure (§ 1005.839).
- Establishes criteria and timeframe for Lenders to submit supplemental claims (§§ 1005.807(c) and 1005.809(e)).
- Establishes that payment of a claim is not conclusive evidence of the claim meeting all Section 184 requirements (§ 1005.835).
- Allows HUD to conduct post-claim review of the loan within five years of claim payment, including full review of the loan origination file (§ 1005.835).

Subpart I: Lender and Servicer Monitoring, Reporting, Sanctions and Appeals

- Outlines HUD's ability to conduct periodic performance reviews, reporting requirements for Lenders and Servicers, and sanctions for noncompliance with regulations.
- Allows for appeals of a determination by HUD to deny a lender's participation in the Section 184 program (§ 1005.909).

Public Comment Period

- Public comment period ends March 17, 2023
- Submit public comments through www.regulations.gov.